

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

SPACE EXPLORATION  
TECHNOLOGIES CORP.,

Case No. 1:24-cv-00001

Plaintiff,

v.

NATIONAL LABOR RELATIONS  
BOARD, a federal administrative agency,  
JENNIFER ABRUZZO, in her official  
capacity as the General Counsel of the  
National Labor Relations Board, LAUREN  
M. McFERRAN, in her official capacity as  
the Chairman of the National Labor  
Relations Board, MARVIN E. KAPLAN,  
GWYNNE A. WILCOX, and DAVID M.  
PROUTY, in their official capacities as  
Board Members of the National Labor  
Relations Board, and JOHN DOE in his  
official capacity as an Administrative Law  
Judge of the National Labor Relations  
Board,

Defendants.

**PROPOSED INTERVENORS' REPLY TO PLAINTIFF'S OPPOSITION TO MOTION  
TO INTERVENE AND WITHDRAWAL OF MOTION**

Proposed Intervenors maintain that they meet the standards for intervention as of right and by permission for the reasons set forth in their Motion to Intervene. However, Proposed Intervenors would like to avoid cluttering the docket so that the Court may decide whether venue properly belongs in California as quickly as possible. In light of the fact that, after Proposed Intervenors filed their proposed Motion to Change Venue, the Defendants also filed a Motion to

Change Venue to the Central District of California,<sup>1</sup> and in light of the fact that SpaceX suggests in its opposition that Proposed Intervenor's "appropriate role" is to participate as amici, Proposed Intervenor is prepared to accept a role as amici for the sake of taking a contested motion off the Court's docket. Accordingly, they are concurrently re-submitting their proposed Motion to Change Venue as an amicus brief in support of Defendants' Motion to Change Venue. Counsel for Proposed Intervenor has conferred with counsel for all parties, who confirmed they do not oppose our participation in this matter as amici. Therefore, Proposed Intervenor respectfully withdraw their Motion to Intervene.<sup>2</sup>

Proposed Intervenor note, though, that they provided critical and different facts than the Defendants did regarding venue and strongly urge the Court to consider these materials when addressing venue. Further, and contrary to SpaceX's speculation, the Proposed Intervenor do have relevant argument to provide on the merits, but are willing to do so as amici rather than as a party for the sake of expediency of the Court in deciding the more important issues pending before it.

---

<sup>1</sup> Proposed Intervenor filed their Motion to Intervene and Proposed Motion to Transfer Venue on Monday, January 4. They did not know whether Defendants would also file a motion to transfer venue until Defendants did so on Thursday, January 7.

<sup>2</sup> To be clear, Proposed Intervenor vigorously disagree with the arguments set forth in SpaceX's opposition to the Motion to Intervene. In particular, SpaceX is wrong that Proposed Intervenor offer no unique facts. Actually, they offered facts so critical to this Court's determination of Defendants' pending Motion to Change Venue that Defendants incorporated those facts by reference into its own pleading. *See* Defendants' Motion to Change Venue (ECF 29) at n.7, 16, 79, 87, & 88. SpaceX is also incorrect that Proposed Intervenor were required to file a pleading under Rule 24(c). In fact, the very case that SpaceX cites provides the opposite. *See DeOtte v. State*, 20 F.4th 1055, 1067 n.2 (5th Cir. 2021) (holding that the Fifth Circuit follows a "permissive approach" to Rule 24(c) and "we will not dismiss for failure to comply with Rule 23(c).").

Dated: February 2, 2024

Respectfully submitted,

/s/ Nimish R. Desai

Nimish R. Desai  
Attorney-in-charge  
Texas Bar No. 24105238  
Southern District of Texas Bar No. 3370303  
LIEFF CABRASER HEIMANN & BERNSTEIN, LLP  
275 Battery Street, 29th Floor  
San Francisco, CA 94111-3339  
Phone: (415) 956-1000  
Fax: (415) 956-1008  
ndesai@lchb.com

Anne B. Shaver (admitted *pro hac vice*)  
Of Counsel  
LIEFF CABRASER HEIMANN & BERNSTEIN, LLP  
275 Battery Street, 29th Floor  
San Francisco, CA 94111-3339  
Phone: (415) 956-1000  
Fax: (415) 956-1008  
ashaver@lchb.com

Laurie M. Burgess (admitted *pro hac vice*)  
Of Counsel  
BURGESS LAW OFFICES, P.C.  
498 Utah Street  
San Francisco, CA 94110  
Phone: (312) 320-1718  
lburgess@burgess-laborlaw.com

*Counsel for Proposed Intervenors*

**CERTIFICATE OF SERVICE**

I hereby certify that on February 2, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will automatically send notification of the filing to all counsel of record.

/s/ Nimish R. Desai

Nimish R. Desai